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CERTIFIED MAIL - RETURN RECEIPT REQUESTED
RETURN RECEIPT NO: 7013 0600 0001 8698 0087

Curtis Mewbourne, Director
Mewbourne Oil Company
P.O. Box 7698
Tyler, Texas 75711

Re: Notice of Violation under the Clean Air Act – Mewbourne Oil Company, Multiple Facilities

Dear Mr. Mewbourne:

The New Mexico Environment Department (NMED) is issuing the enclosed Notice of Violation (NOV) to Mewbourne Oil Company. NMED is issuing this NOV under NMSA § 74-2-12 and 12.1, and 20.2.77 NMAC, based on information described in detail below that represents specific violations of the Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution For Which Construction, Modification or Reconstruction Commenced After August 23, 2011, and On or Before September 18, 2015, 40 C.F.R. Part 60, Subpart OOOO and the Standards of Performance for Crude Oil and Natural Gas Facilities for which Construction, Modification or Reconstruction Commenced after September 18, 2015, 40 C.F.R. Part 60, Subpart OOOOa.

NMSA § 74-2-12 gives NMED several enforcement options to resolve these violations, including issuing an administrative compliance order, issuing a statutorily authorized penalty, or bringing a judicial civil action.

We are offering Mewbourne the opportunity to request a conference with NMED and EPA to discuss the violations identified in this NOV. A conference should be requested within ten (10) business days following receipt of this NOV. This conference will provide Mewbourne with a chance to present information on the identified violations, any efforts you have taken to comply, and the steps you will take to prevent future violations. You may have counsel represent you at this conference.

The NMED contact in this matter is Shannon Duran, and she may be reached at (505) 476-4353, or Shannon.Duran@state.nm.us to request a conference. You may have your counsel contact Andrew Knight at (505) 222-9540, or Andrew.Knight@state.nm.us.

Sincerely,

Liz Bisbey-Kuehn
Bureau Chief
Air Quality Bureau
New Mexico Environment Department

cc: Steve Thompson, EPA Region 6
Andrew Knight, NMED

Enclosure: Notice of Violation (NOV)

NEW MEXICO ENVIRONMENT DEPARTMENT

IN THE MATTER OF:	)	
	)	
Mewbourne Oil Company	)	
Tyler, Texas	)	**NOTICE OF VIOLATION**
	)	
	)	
Proceedings Pursuant to	)	
the Air Quality Control Act	)	
NMSA § 74-2-12	)	

NOTICE OF VIOLATION

The New Mexico Environment Department (NMED) is sending this Notice of Violation (NOV) under NMSA § 74-2-12 and 12.1 based on information set forth in detail in the paragraphs that follow.

The NMED alleges that Mewbourne is in violation of the requirements and prohibitions of the New Mexico State Implementation Plan (NM SIP), including New Mexico permitting requirements at certain oil and natural gas production facilities identified in this NOV that are located in Eddy County and Lea County, New Mexico. The NMED also alleges that Mewbourne violated the Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution for which Construction, Modification or Reconstruction Commenced After August 23, 2011, and On or Before September 18, 2015, 40 C.F.R. Part 60, Subpart OOOO, and the Standards of Performance for Crude Oil and Natural Gas Facilities for which Construction, Modification, or Reconstruction Commenced After September 18, 2015, 40 C.F.R. Part 60, Subpart OOOOa at several oil and natural gas production facilities identified below.

The NMED is providing Mewbourne with the opportunity to request a conference with us to discuss the violations alleged in the NOV. This conference will provide Mewbourne with the chance to present information on the identified violations, any efforts it has undertaken to comply, and the steps it will take to prevent future violations. You may have legal counsel represent and accompany you at this conference.

I. Mewbourne Oil Company

1. Mewbourne is an exploration and production company incorporated in Delaware and registered to transact business as a Foreign Profit Corporation in the State of New Mexico. Mewbourne's business includes the extraction and production of natural gas and hydrocarbon liquids (e.g., oil and natural gas condensate) at facilities including those located in Texas, Oklahoma, and New Mexico.

2. Mewbourne's headquarters is located at 3901 S Broadway Avenue, Tyler, TX 75701.

3. Mewbourne is the owner and operator of the oil and natural gas production facilities relevant to this Notice identified in Tables 1, 2 and 3 below.

4. On April 16-18, 2019, EPA inspectors Cary Secrest and Daniel Hoyt and New Mexico Environment Department (NMED) inspector Cindy Hollenberg inspected the oil and natural gas production facilities listed in Table 1.

TABLE 1: IDENTIFICATION OF FACILITIES INSPECTED ON APRIL 16-18, 2019

Facility Name	AIRS No[1]	Physical Location[2]
Cabra Nino 11 B3MD State Com 1H Battery	350251329	32° 23' 57.8616", -103° 26' 36.6" Lea County New Mexico
FNR 17-20 B21P Fed Com 1H B31P 2H Battery	350152099	32° 18' 4.39", -103° 53' 57.23" Eddy County, New Mexico
Forty Niner Ridge Unit 105H 106H Battery	350152118	32° 17' 7.51", -103° 51' 42.52" Eddy County, New Mexico
Hoss 2 11 Federal Com Battery	350151843	32° 9' 57.6", -104° 3' 16.9" Eddy County, New Mexico
Mad Dog 26 MD State Com 1H Battery	350251317	32° 16' 7.6483", -103° 26' 53.8316" Lea County, New Mexico
Pronghorn 15 B3CN Fed Com 1H Battery	350251611	32° 18' 42.41", -103° 27' 55.14" Lea County, New Mexico
Queen 23 24 Fed Com Battery	350151989	32° 11' 52.23", -104° 3' 35.14" Eddy County, New Mexico
Yardbirds 3 W0AP Fee 2H W2AP 1H Battery	350152125	32° 15' 13.46", -104° 4' 5.05" Eddy County, New Mexico
Toro 36 B3AP State 1H Battery	350251483	32° 16' 3.99", -103° 25' 48.6" Lea County, New Mexico
Toro 36 B2CN State 1H Battery	350251409	32° 16' 3.29", -103° 25' 18.12" Lea County, New Mexico
Speedwagon 27 Fee Battery	350151929	32.2679118, -104.0669549 Eddy County, New Mexico

[1] *Aerometric Information Retrieval System Number (AIRS No.)*
[2] *Physical Location is from the facility Notice of Intent (NOI) response letter issued by NMED, except Speedwagon 27 Fee Battery, where Physical Location is of the well that is associated with the Facility Name and that has the highest oil production rate over the 12-month period ending November 2018 as reported by DrillingInfo.*

5. On April 18, 2019, EPA inspectors Cynthia Kaleri and Prince Nfodzo, and NMED inspector Andrew Ahr inspected the oil and natural gas production facilities listed in Table 2.

TABLE 2: IDENTIFICATION OF ADDITIONAL FACILITIES INSPECTED ON APRIL 18, 2019

Facility Name	AIRS No. [3]	Physical Location[4]
Salado Draw 9 16 W1BO Federal Com	N/A	32.0642944, -103.5755427 Lea County, New Mexico
El Mar 21 W0DM 2H W1CN 3H W0CN 4H Battery	350251562	32° 2' 8.64", -103° 34' 53.74" Lea County, New Mexico
Jennings 34 W1MD Fed Com 1H Battery	350251653	32° 4' 42.78", -103° 40' 7.54" Lea County, New Mexico
Lindale 24-25 W1AH Fed 1H 2H Battery	350152096	32° 2' 5.42", -103° 49' 37.96" Lea County, New Mexico
Salado Draw 10 Federal Battery	350151943	32° 2' 59.66", -103° 33' 10.43" Eddy County, New Mexico

[3] Aerometric Information Retrieval System Number (AIRS No.)
[4] Physical Location is from the facility Notice of Intent (NOI) response letter issued by NMED, except SALADO DRAW 9 16 W1BO FEDERAL COM, where Physical Location is of the well that is associated with the Facility Name and that has the highest oil production rate over the 12-month period ending November 2018 as reported by DrillingInfo.

6. Table 3 lists oil and natural gas production facilities for which no permit application or notice of intent (NOI) to construct has been submitted to NMED.

TABLE 3: IDENTIFICATION OF FACILITIES WITH NO PERMIT APPLICATION OR NOI

Facility Name	Physical Location[5]
Salado Draw 9 16 W1BO Federal Com	32.0642944, -103.5755427 Lea County, New Mexico
Jennings 27 W0AP Federal Com	32.1081054, -103.6556613 Lea County, New Mexico
Armstrong 26 23 W1HA Federal Com	32.1011897, -103.7407842 Eddy County, New Mexico
Leo 15 B2DN Federal Com	32.7528398, -103.9666674 Eddy County, New Mexico
Owl Draw 22 27 B2BO Federal Com	32.0338014, -104.1741441 Eddy County, New Mexico
Oxbow 26 25 W0DA Federal Com	32.10673565, -104.0648216 Eddy County, New Mexico
Virgo 24 23 B2AD Federal Com	32.7388038, -103.9169838 Eddy County, New Mexico
Roscoe 6 B3AD Federal Com	32.5189694, -104.2207602 Eddy County, New Mexico
Scharb 10 B3MD State	32.6680524, -103.5544746 Lea County, New Mexico
Marathon Road 14 NC Federal	32.5653024, -103.532592 Lea County, New Mexico
Boston 7 W0MP Fee	32.226807, -104.1338519 Eddy County, New Mexico

Facility Name	Physical Location[5]
Rock Spur 27 W0CN State Com	32.1950952, -104.0779567 Eddy County, New Mexico
Whitesnake 20 21 W0BC Fee	32.2958947, -104.1115068 Eddy County, New Mexico
Styx 17 W2PA Fee Com	32.2970156, -104.1010299 Eddy County, New Mexico
Foreigner 33 4 W2LM Fee	32.2603515, -104.0985244 Eddy County, New Mexico
Zeppelin 32 W0LI State Com	32.2592435, -104.1172738 Eddy County, New Mexico
Hollywood 28 33 W2IP Federal Com	32.2749777, -104.1874192 Eddy County, New Mexico
South Loving 2 11 W0DE State Com	32.2529713, -104.1649642 Eddy County, New Mexico
Journey 12 W0MP Fee Com	32.225707, -104.048812 Eddy County, New Mexico
[5]*Physical Location of the well that is associated with the Facility Name and that has the highest oil production rate over the 12-month period ending November 2018 as reported by DrillingInfo.*	

7. NMED's findings from the compliance investigation, including information gathered during the site inspections, are discussed in Section III (Factual Background) and Section IV (Violations).

II. Statutory and Regulatory Background

8. The purpose of the CAA is to protect and enhance the quality of the nation's air resources so as to promote the public health and welfare and the productive capacity of its population. CAA Section 101(b)(1), 42 U.S.C. § 7401(b)(1).

NSPS 40 C.F.R. Part 60, Subparts OOOO and OOOOa

9. Section 111 of the CAA, 42 U.S.C. § 7411, authorizes the EPA to promulgate regulations establishing New Source Performance Standards (NSPS). Section 111(e) of the CAA, 42 U.S.C. § 7411(e), states that after the effective date of standards of performance promulgated under this section, it shall be unlawful for any owner or operator of any new source to operate such source in violation of any standard of performance applicable to such source.

10. In 2012, pursuant to its authority under Section 111(b)(1)(B) of the Act to review and, if appropriate, revise NSPS, the EPA published the final rule, "Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution," found at 40 C.F.R. Part 60, Subpart OOOO.

11. In 2013 and 2014, the EPA made amendments to the 2012 NSPS with respect to standards for storage vessels and other changes, which are found at 40 C.F.R. Part 60, Subpart OOOOa[6].

12. Affected facilities that commence construction, modification, or reconstruction after August 23, 2011, and on or before September 18, 2015, are subject to standards under 40 C.F.R. Part 60, Subpart OOOO. 40 C.F.R. § 60.5360. Affected facilities that commence construction, modification, or reconstruction after September 18, 2015, are subject to standards under 40 C.F.R. Part 60, Subpart OOOOa. 40 C.F.R. § 60.5360a. Both subparts will be referred to hereinafter collectively as "NSPS Subparts OOOO and OOOOa."

13. Among the "affected facilities" subject to NSPS Subparts OOOO or OOOOa are "storage vessel affected facilities." 40 C.F.R. §§ 60.5365(e) and 60.5365a(e). Specifically, NSPS Subpart OOOO at § 60.5365(e) specifies that a "storage vessel affected facility" is a single storage vessel in the oil and natural gas production segment, natural gas processing segment, or natural gas transmission and storage segment, with the potential for volatile organic compounds (VOC) emissions equal to or greater than 6 tons per year (tpy). NSPS Subpart OOOOa at § 60.5365a(e) specifies that a "storage vessel affected facility" is a single storage vessel with the potential for VOC emissions equal to or greater than 6 tpy.

14. NSPS Subparts OOOO and OOOOa define "storage vessel" as a tank or other vessel that contains an accumulation of crude oil, condensate, intermediate hydrocarbon liquids, or produced water, and that is constructed primarily of non-earthen materials (such as wood, concrete, steel, fiberglass, or plastic), which provide structural support. 40 C.F.R. §§ 60.5430 and 60.5430a.

NSPS Subparts OOOO and OOOOa Emissions Determination of 40 C.F.R. §§ 60.5365(e) and 60.5365a(e)

15. According to NSPS Subparts OOOO and OOOOa, to determine whether a storage vessel is a storage vessel affected facility subject to the requirements of NSPS Subpart OOOO and OOOOa, the owner or operator shall, per the schedule specified in the regulation, perform an emissions determination of potential VOC emissions. As required under 40 C.F.R. §§ 60.5365(e) and 60.5365a(e), owners or operators must calculate the potential for VOC emissions using a generally accepted model or calculation methodology, based on the maximum average daily throughput determined for a 30-day period of production.

16. NSPS Subparts OOOO and OOOOa provide that the emissions determination may take into account requirements under a legally and practically enforceable limit in an operating permit or other requirement established under a federal, state, local or tribal authority. 40 C.F.R. §§ 60.5365(e) and 60.5365a(e).

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6 On June 3, 2016, the EPA published a final rule that established NSPS for pollutants including VOC emissions from the oil and natural gas sector. 81 Fed. Reg. 35,824 (Jun. 3, 2016). Following promulgation of the 2016 final rule, the EPA granted reconsideration of the fugitive emissions requirements at well sites and compressor stations, well-site pneumatic pump standards and the requirements for certification of closed vent systems by a professional engineer. 82 Fed. Reg. 25,730 (Jun. 5, 2017); *see also* 83 Fed. Reg. 52,056 (Oct. 15, 2018) (proposing amendments and clarifications to address these issues and technical clarification issues).

17. NSPS Subparts OOOO and OOOOa state that for owners and operators performing the emissions determination for storage vessels that are not subject to a legally and practically enforceable limit in an operating permit or other requirement established under federal, state, local or tribal authority, any vapor from the storage vessel that is recovered and routed to a process through a vapor recovery unit (VRU) designed and operated as specified in 40 C.F.R. §§ 60.5365(e)(3) and 60.5365a(e)(3), is not required to be included in the determination of VOC potential to emit (PTE) for the purpose of determining affected facility status, provided that the owner and operator complies with the following:

a. The owner and operator must meet the cover requirements specified in §§ 60.5411(b) and 60.5411a(b). 40 C.F.R. §§ 60.5365(e)(3)(i) and 60.5365a(e)(3)(i).

b. The owner and operator must meet the closed vent system requirements specified in §§ 60.5411(c) and 60.5411a(c) and (d). 40 C.F.R. §§ 60.5365(e)(3)(ii) and 60.5365a(e)(3)(ii).

c. The owner and operator must maintain records that document compliance with the two requirements listed above. 40 C.F.R. §§ 60.5365(e)(3)(iii) and 60.5365a(e)(3)(iii).

d. The owner and operator must determine the storage vessel's PTE within 30 days of the removal of apparatus that recovers and routes vapor to a process, or operation that is inconsistent with 40 C.F.R. §§ 60.5365(e)(3)(i) and (ii) and 60.5365a(e)(3)(i) and (ii). 40 C.F.R. §§ 60.5365(e)(3)(iv) and 60.5365a(e)(3)(iv).

NSPS Subparts OOOO and OOOOa Storage Vessel Affected Facilities VOC Standards of 40 C.F.R. §§ 60.5395 and 60.5395a

18. NSPS Subparts OOOO and OOOOa require owners and operators of storage vessel affected facilities to reduce emissions by 95.0 percent according to a specified schedule. 40 C.F.R. §§ 60.5395(d) and 60.5395a(a)(2).

19. NSPS Subparts OOOO and OOOOa require that if the owner or operator of a storage vessel affected facility uses a control device to reduce VOC emissions from a storage vessel affected facility, the owner or operator must equip the storage vessel with a cover connected to a closed vent system and route emissions to a control device or process that meets the requirements of at 40 C.F.R. §§ 60.5395(e) and 60.5395a(b), specified below:

a. The cover shall meet the requirements of 40 C.F.R. §§ 60.5411(b) and 60.5411a(b);

b. The closed vent system shall meet the requirements of 40 C.F.R. §§ 60.5411(c), and 60.5411a(c) and 60.5411a(d); and,

c. The control device (that is not a carbon adsorption system) shall meet the requirements of 40 C.F.R. §§ 60.5412(c) and 60.5412(d), and 60.5412a(c) and 60.5412a(d). 40 C.F.R. §§ 60.5395(e) and 60.5395a(b).

20. NSPS Subparts OOOO and OOOOa require owners and operators of storage vessel affected facilities to demonstrate continuous compliance as specified in 40 C.F.R. §§ 60.5415(e)(3) and 60.5415a(e)(3). 40 C.F.R. §§ 60.5395(g)(2) and 60.5395a(d)(2).

NSPS Subparts OOOO and OOOOa Initial Compliance Period of 40 C.F.R. §§ 60.5410 and 60.5410a

21. NSPS Subparts OOOO and OOOOa establish an initial compliance period for each storage affected facility. 40 C.F.R. §§ 60.5410 and 60.5410a.

22. NSPS Subpart OOOO specifies the initial compliance period begins on October 15, 2012, or upon initial startup, whichever is later. The period ends no later than one year after the initial startup date or no later than one year after October 15, 2012. 40 C.F.R. § 60.5410.

23. NSPS Subpart OOOOa specifies the initial compliance period begins on August 2, 2016, or upon initial startup, whichever is later. The period ends no later than one year after the initial startup date or no later than one year after August 2, 2016. 40 C.F.R. § 60.5410a.

NSPS Subparts OOOO and OOOOa Cover Requirements of 40 C.F.R. §§ 60.5411(b) and 60.5411a(b)

24. NSPS Subparts OOOO and OOOOa require that owners and operators of storage vessel affected facilities or storage vessels following the VRU provisions of 40 C.F.R. §§ 60.5365(e)(3) and 60.5365a(e)(3) in their emission determination comply with the cover requirements of 40 C.F.R. §§ 60.5411(b) and 60.5411a(b).

25. The cover and all openings on the cover (e.g., access hatches, and pressure relief devices) shall form a continuous impermeable barrier over the entire surface area of the liquid in the storage vessel. 40 C.F.R. §§ 60.5411(b)(1) and 60.5411a(b)(1).

26. Each cover opening shall be secured in a closed, sealed position whenever material is in the unit, except during times when it is necessary to use an opening as provided below. 40 C.F.R. §§ 60.5411(b)(2) and 60.5411a(b)(2).

    a. To add material to or remove material from the unit (this includes openings necessary to equalize or balance the internal pressure of the unit following changes in the level of the material in the unit);

    b. To inspect or sample the material in the unit;

    c. To inspect, maintain, repair, or replace equipment located inside the unit; or

    d. To vent liquids, gases, or fumes from the unit through a closed-vent system designed and operated in accordance with the requirements of NSPS Subpart OOOO at 40 C.F.R. § 60.5411(c) and NSPS Subpart OOOOa at 40 C.F.R. §§ 60.5411a(c) and 60.5411a(d).

27. Each storage vessel thief hatch shall be equipped, maintained, and operated with a weighted mechanism or equivalent to ensure that the lid remains properly seated and sealed under normal operating conditions. The gasket material for the hatch must be selected based on composition of the fluid in the storage vessel and weather conditions. 40 C.F.R. §§ 60.5411(b)(3) and 60.5411a(b)(3).

NSPS Subparts OOOO and OOOOa Closed Vent System Requirements of 40 C.F.R § 60.5411(c), and 40 C.F.R. §§ 60.5411a(c) and 60.5411a(d)

28. NSPS Subparts OOOO and OOOOa require that owners and operators of storage vessel affected facilities or storage vessels following the VRU provisions of 40 C.F.R. §§ 60.5365(e)(3) and 60.5365a(e)(3) in their emission determination comply with the closed vent system requirements of NSPS Subpart OOOO at 40 C.F.R. § 60.5411(c) and of NSPS Subpart OOOOa at 40 C.F.R. §§ 60.5411a(c) and 60.5411a(d).

29. Owners and operators must design the closed vent system to route all gases, vapors, and fumes emitted from the material in the storage vessel to a control device that meets the requirements specified in 40 C.F.R. §§ 60.5412(d) and 60.5412a(d), or to a process. 40 C.F.R. §§ 60.5411(c)(1) and 60.5411a(c)(1).

30. Owners and operators must design and operate a closed vent system with no detectable emissions, as determined using olfactory, visual, and auditory (OVA) inspections. 40 C.F.R. §§ 60.5411(c)(2) and 60.5411a(c)(2).

31. If the closed vent system contains one or more bypass devices that could be used to divert all or a portion of the gases, vapors, or fumes from entering the control device or to a process, then the owner or operator must complete either of the requirements below, except for low leg drains, high point bleeds, analyzer vents, open-ended valves or lines, and safety devices. 40 C.F.R. §§ 60.5411(c)(3) and 60.5411a(c)(3).

    a. According to 40 C.F.R. §§ 60.5411(c)(3)(i)(A) and 60.5411a(c)(3)(i)(A), owners and operators must properly install, calibrate, maintain, and operate a flow indicator at the bypass device that could divert the stream away from the control device or process to the atmosphere. The flow indicator must sound an alarm or indicate notification via remote alarm. Records must be maintained each time the alarm is activated; or,

    b. According to 40 C.F.R. §§ 60.5411(c)(3)(i)(B) and 60.5411a(c)(3)(i)(B), owners and operators must secure the bypass device valve installed at the inlet to the bypass device in the non-diverting position using a car-seal or a lock-and-key type configuration.

32. Under NSPS Subpart OOOOa, owners and operators must conduct an assessment that the closed vent system is of sufficient design and capacity to ensure that all emissions from the storage vessel are routed to the control device and that the control device is of sufficient design and capacity to accommodate all emissions from the affected facility and have it certified by a qualified professional engineer. 40 C.F.R. § 60.5411a(d).

NSPS Subparts OOOO and OOOOa Control Device Requirements of 40 C.F.R.§§ 60.5412(d) and 60.5412a(d)

33. NSPS Subparts OOOO and OOOOa require owners and operators of storage vessel affected facilities to meet specific requirements listed for each control device used to meet the emission reduction standard in 40 C.F.R. §§ 60.5395(d) and 60.5395a(a)(2). 40 C.F.R. §§ 60.5412(d) and 60.5412a(d).

a. For each combustion control device, an owner or operator of a storage vessel affected facility must design and operate the combustion control device in accordance with certain performance requirements set forth in 40 C.F.R. §§ 60.5412(d) and 60.5412a(d).

b. For each vapor recovery device or other non-destructive control device, an owner or operator of a storage vessel affected facility must design and operate the device to reduce mass content of VOC by 95 percent. 40 C.F.R. §§ 60.5412(d)(2) and 60.5412a(d)(2).

c. Owners and operators of storage vessel affected facilities must design and operate a flare in accordance with the requirements of 40 C.F.R. § 60.18(b). 40 C.F.R. § 60.5425, and 40 C.F.R. §§ 60.5425a and 60.5412a(d)(3).

d. Each control device must be in operation at all times when gases, vapors, and fumes are vented from the storage vessel affected facility through the closed vent system to the control device. 40 C.F.R. §§ 60.5412(d)(3) and 60.5412a(d)(4).

NSPS Subparts OOOO and OOOOa Continuous Compliance Requirements of 40 C.F.R §§ 60.5415(e) and 60.5415a(e)

34. NSPS Subparts OOOO and OOOOa require owners and operators of storage vessel affected facilities that use a control device to meet the emission reduction standard of 40 C.F.R. §§ 60.5395(d) and 60.5395a(a)(2) to demonstrate continuous compliance with the following requirements specified in 40 C.F.R §§ 60.5415(e) and 60.5415a(e):

a. Reduce VOC emissions by 95.0 percent as specified in 40 C.F.R. §§ 60.5395(d) and 60.5395a(a)(2); and,

b. Demonstrate continuous compliance with 40 C.F.R. §§ 60.5416(c) and 60.5416a(c) for each cover and closed vent system and 40 C.F.R. §§ 60.5417(h) and 60.5417a(h) for each control device.

35. NSPS Subparts OOOO and OOOOa require owners and operators of storage vessel affected facilities that route emissions to a process to meet the emission reduction standard of 40 C.F.R. §§ 60.5395(d) and 60.5395a(a)(2) to demonstrate continuous compliance with the following requirements specified in 40 C.F.R §§ 60.5415(e) and 60.5415a(e):

a. Reduce VOC emissions by 95.0 percent as specified in 40 C.F.R. §§ 60.5395(d) and 60.5395a(a)(2); and,

b. Demonstrate continuous compliance with 40 C.F.R. §§ 60.5416(c) and 60.5416a(c) for each cover and closed vent system and 40 C.F.R. § 60.5411(c)(2), and 40 C.F.R. §§ 60.5411a(c)(2) and (3) for each closed vent system that routes emissions to a process.

NSPS Subparts OOOO and OOOOa Continuous Cover and Closed Vent System Requirements of 40 C.F.R. §§ 60.5416(c) and 60.5416a(c)

36. NSPS Subparts OOOO and OOOOa require owners and operators of storage vessel affected facilities that use a control device or route emissions to a process to meet specific closed vent system and cover requirements listed below. 40 C.F.R. §§ 60.5416(c) and 60.5416a(c).

37. NSPS Subparts OOOO and OOOOa require owners and operators of storage vessel affected facilities to inspect each closed vent system at least once every calendar month as specified in 40 C.F.R. §§ 60.5416(c)(1) and 60.5416a(c)(1).

38. NSPS Subparts OOOO and OOOOa require owners and operators of storage vessel affected facilities to inspect each cover at least once every calendar month as specified in 40 C.F.R. §§ 60.5416(c)(2) and 60.5416a(c)(2).

39. NSPS Subparts OOOO and OOOOa require owners and operators of storage vessel affected facilities to meet the requirements for each bypass device as specified in 40 C.F.R. §§ 60.5416(c)(3) and 60.5416a(c)(3), except as provided in 40 C.F.R §§ 60.5411(c)(3)(ii) and 60.5411a(c)(3)(ii).

40. NSPS Subparts OOOO and OOOOa require owners and operators of storage vessel affected facilities to repair a leak or defect as soon as practicable after a leak or defect is detected, unless a delay of repair is permitted. 40 C.F.R. §§ 60.5416(c)(4-5) and 60.5416a(c)(4-5).

NSPS Subparts OOOO and OOOOa Continuous Control Device Monitoring Requirements of 40 C.F.R §§ 60.5417(h) and 60.5417a(h)

41. NSPS Subparts OOOO and OOOOa require owners and operators of storage vessel affected facilities that use a control device to meet the emission reduction standard in 40 C.F.R. §§ 60.5395(d)(1) and 60.5395a(a)(2) to comply with the continuous compliance requirements specified in 40 C.F.R. §§ 60.5417(h) and 60.5417a(h).

42. NSPS Subparts OOOO and OOOOa require owners and operators to operate each control device following the manufacturer's written operating instructions, procedures, and maintenance schedule to ensure good air pollution controls for minimizing emissions. Records must be made available as specified in 40 C.F.R §§ 60.5420(c)(13) and 60.5420a(c)(13). 40 C.F.R. §§ 60.5417(h)(3) and 60.5417a(h)(3).

NSPS Subparts OOOO and OOOOa Notification, Reporting, and Recordkeeping Requirements of 40 C.F.R. §§ 60.5420 and 60.5420a

43. NSPS Subparts OOOO and OOOOa establish notification, reporting, and recordkeeping requirements for affected facilities in 40 C.F.R. §§ 60.5420 and 60.5420a. The relevant provisions to this NOV are specified below, however, other requirements may apply as listed in NSPS Subparts OOOO and OOOOa.

44. NSPS Subparts OOOO and OOOOa requires owners and operators of affected facilities to submit notifications pursuant to 40 C.F.R. §§ 60.7(a)(1), (3), and (4). If the owner and operator of an affected facility has a storage vessel, they are not required to submit notifications. 40 C.F.R. §§ 60.5420(a)(1) and 60.5420a(a)(1).

45. NSPS Subparts OOOO and OOOOa establish that initial annual reports are due no later than 90 days after the end of the initial compliance period. The initial compliance period for NSPS Subpart OOOO began on October 15, 2012, or begins upon initial startup, whichever is later, and ends no later than one year after the initial startup date for an affected facility, or no later than one year after October 15, 2012. 40 C.F.R. § 60.5410. The initial compliance period for NSPS Subpart OOOOa began on August 2, 2016, or begins upon initial startup, whichever is later, and ends no later than one year after the initial startup date for an affected facility, or no later than one year after August 2, 2016. 40 C.F.R. § 60.5410a. Subsequent reports are due no later than the same date each year as the initial annual report. 40 C.F.R. §§ 60.5420(b) and 60.5420a(b).

46. NSPS Subpart OOOO and OOOOa specify that the reports for affected facilities must contain information including the company name, the US Well ID, the address or location, identification, beginning and ending dates of the reporting period, and certification of truth, accuracy, and completeness. 40 C.F.R. §§ 60.5420(b)(1) and 60.5420a(b)(1).

47. NSPS Subpart OOOO and OOOOa annual reports for storage vessel affected facilities must include the identification and location of each storage vessel affected facility constructed, modified, or reconstructed during the reporting period. Annual reports must also include documentation of the VOC emission rate determination, records of deviations, and a statement indicating requirements have been met. Any storage vessel affected facility that is removed from service or returned to service during the reporting period must be noted. 40 C.F.R. §§ 60.5420(b)(6) and 60.5420a(b)(6).

48. NSPS Subpart OOOO requires that all reports, except for well completion notifications subject to requirements of 40 C.F.R. § 60.5420(a)(2)(i), must be sent to the Administrator at the appropriate address listed in 40 C.F.R. § 60.4. The report may be requested by the Administrator or the delegated authority in any form suitable for the specific case. 40 C.F.R. § 60.5420(b)(7)(ii).

49. NSPS Subpart OOOOa requires that all reports are submitted to the EPA via the Compliance and Emissions Date Reporting Interface (CEDRI). The reports must be in the appropriate electronic form and appropriate format in CEDRI. If the reporting form is not available in CEDRI at the time

the report is due, the report must be submitted to the Administrator at the appropriate address listed in 40 C.F.R. § 60.4. Once the form has been available for at least 90 calendar days, all subsequent reports must be submitted via CEDRI. The reports must be submitted by the deadlines, regardless of the method in which they are submitted. 40 C.F.R. § 60.5420a(b)(11).

50. All information required to be submitted to the EPA for NSPS Subpart OOOO and OOOOa must also be submitted to the appropriate state agency to which authority has been delegated. 40 C.F.R. § 60.4(b).

51. NMED was delegated authority for NSPS Subpart OOOO effective April 3, 2015, and for NSPS Subpart OOOOa effective October 12, 2018, for the State of New Mexico. 40 C.F.R. § 60.4(e)(1). *See* 80 Fed. Reg. 5,475 (Feb. 2, 2015) and 83 Fed. Reg. 46,107 (Sept. 12, 2018). EPA Region 6 waived the requirements for NSPS Subpart OOOO reports to be submitted to the EPA, effective April 3, 2015. *See* 80 Fed. Reg. 5,475 (Feb. 2, 2015).

52. NSPS Subpart OOOOa requires that owners and operators submit the certification signed by the qualified professional engineer according to 40 C.F.R. § 60.5411a(d) for each closed vent system routing to a control device or process. 40 C.F.R. § 60.5420a(b)(12).

53. Owners and operators must maintain the records identified in NSPS Subpart OOOO at 40 C.F.R. §§ 60.7(f) and 60.5420(c)(1)-(14) and NSPS Subpart OOOOa at 40 C.F.R. §§ 60.7(f) and 60.5420a(c)(1)-(17). Records must be maintained either onsite or at the nearest local field office for at least five years. 40 C.F.R. §§ 60.5420(c) and 60.5420a(c).

New Mexico State Implementation Plan (SIP)

54. Section 108(a) of the Act, 42 U.S.C. § 7408(a), requires the Administrator of the EPA to identify and prepare air quality criteria for each air pollutant, emissions of which may endanger public health or welfare, and the presence of which results from numerous or diverse mobile or stationary sources. For each such "criteria" pollutant, Section 109 of the Act, 42 U.S.C. § 7409, requires the EPA to promulgate national ambient air quality standards (NAAQS) requisite to protect the public health and welfare.

55. Pursuant to Sections 108 and 109 of the Act, 42 U.S.C. §§ 7408 and 7409, the EPA has identified ozone, among others, as criteria pollutants, and has promulgated NAAQS for these pollutants. Certain precursors to ozone formation, such as VOC and oxides of nitrogen (NO_x), are regulated as part of the air quality standards for ozone itself. 40 C.F.R. §§ 50.6 to 50.11.

56. Under Section 107(d) of the Act, 42 U.S.C. § 7407(d), each state is required to designate those areas within its boundaries where the air quality either meets or does not meet the NAAQS for each criteria pollutant, or where the air quality cannot be classified due to insufficient data. An area that meets the NAAQS for a particular criteria pollutant is termed an "attainment" area with respect to such pollutant. An area that does not meet the NAAQS for a particular criteria pollutant is termed a "nonattainment" area with respect to such pollutant.

57. Section 110(a) of the Act, 42 U.S.C. § 7410(a), requires each state to adopt and submit to the Administrator of the EPA a plan which provides for implementation, maintenance, and enforcement, for each promulgated NAAQS, in each air quality control region (or portion thereof). Each such plan, known as a State Implementation Plan (SIP), must include enforceable emission limitations and other control measures as well as a permit program to regulate the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that NAAQSs are achieved. Section 110(a)(2)(A) of the Act, 42 U.S.C. § 7410(a)(2)(A). The SIP must also provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor, compile, and analyze data on ambient air quality and, upon request, make such data available to the EPA. Section 110(a)(2)(B) of the Act, 42 U.S.C. § 7410(a)(2)(B).

58. Pursuant to Section 113(a) and (b) of the CAA, 42 U.S.C. § 7413(a) and (b), upon EPA approval, SIP requirements are federally enforceable under Section 113. Under 40 C.F.R. § 52.23, any permit limitation or condition contained within a permit issued under an EPA-approved program that is incorporated in a SIP is a requirement of the SIP and is federally enforceable under Section 113.

59. Pursuant to Section 110 of the CAA, the State of New Mexico adopted regulations that comprise the SIP for New Mexico (the NM SIP). The NM SIP regulations as approved by the EPA are set forth in 40 C.F.R. § 52.1620(c).

60. At all times relevant to this Notice, Eddy and Lea Counties, New Mexico, where the relevant facilities owned and operated by Mewbourne are located, have been classified as attainment for all criteria pollutants. However, during the 2016 through 2018 time period, air quality monitors in Lea County and Eddy County measured above 95% of the NAAQS for ozone. Under state law, NMED is required to adopt a plan, including regulations, to control emissions of NOx and VOC to provide for attainment and maintenance of the standard.

61. The NM SIP regulations governing construction permitting of a stationary source are currently codified at § 20.2.72 of the New Mexico Administrative Code (NMAC). These regulations were originally codified in § 702 of the New Mexico Air Quality Control Regulations (AQCRs). AQCR § 702 was included in the NM SIP approved by the EPA in 1972.

62. The NM SIP regulations governing notice of intent to construct and emissions inventory requirements are currently codified at 20.2.73 NMAC. These regulations were originally codified in § 703.1 of the AQCRs. AQCR § 703.1 was included in the NM SIP approved by the EPA in 1972.

63. In 1996, New Mexico renumbered and reformatted all regulations, including the AQCRs, into the NMAC. Accordingly, the Governor of New Mexico formally submitted a recodification and revision of the NM SIP. The EPA's effective date of the approval the recodification and revisions of the NM SIP was November 25, 1997. These changes included minor revisions to AQCR § 702 and recodification to 20.2.72 NMAC. These changes also included recodification of AQCR § 703.1 to 20.2.73 NMAC. 62 Fed. Reg. 50,514 (Sept. 26, 1997).

64. New Mexico subsequently submitted certain revisions of 20.2.72 NMAC to the EPA on May 29, 1998, November 6, 1998, April 11, 2002, April 25, 2005, and November 2, 2006, and in a letter from the Secretary of the NMED dated November 7, 2012. The effective date for the EPA's approval of these revisions, incorporating them into the approved NM SIP, was April 10, 2013. 78 Fed. Reg. 15,296 (Mar. 11, 2013).

65. New Mexico also submitted minor revisions of 20.2.73 NMAC on June 24, 2011. The effective date for the EPA's approval of these revisions, incorporating them into the approved NM SIP, was December 27, 2012. 77 Fed. Reg. 70,693 (Nov. 27, 2012).

66. 20.2.72.7 NMAC and 20.2.73.7 NMAC set forth the following definitions for purposes of requirements thereunder:

a. "Department" means "the New Mexico environment department (NMED) or its successor agency or authority, as represented by the department secretary or his or her designee." 20.2.2.7(I) NMAC.

b. "Construction" means "fabrication, erection, installation or relocation of a stationary source, including but not limited to temporary installations and portable stationary sources." 20.2.72.7(I) NMAC or 20.2.73.7(D) NMAC.

c. "Stationary source" means "any building, structure, equipment, facility, installation (including temporary installations), operation or portable stationary source which emits or may emit any air contaminant." 20.2.72.7(EE) NMAC.

d. "Potential emission rate" means "the emission rate of a source at its maximum capacity to emit a regulated air contaminant under its physical and operational design, provided any physical or operational limitation on the capacity of the source to emit a regulated air contaminant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its physical and operational design only if the limitation or the effect it would have on emissions is enforceable by the department pursuant to the Air Quality Control Act or the federal Act." 20.2.72.7(Y) NMAC or 20.2.73.7(O) NMAC.

e. "Regulated air contaminant" means "any air contaminant, the emission or ambient concentration of which is regulated pursuant to the New Mexico Air Quality Control Act or the federal act." 20.2.72.7(AA) NMAC or 20.2.73.7(Q) NMAC.

f. "Air contaminant" means "any airborne substance, including but not limited to, any particulate matter, fly ash, dust, fumes, gas, mist, smoke, vapor, micro-organisms, radioactive material, any combination thereof or any decay or reaction product thereof." 20.2.2.7(C) NMAC.

g. "Modification" means "any physical change in, or change in the method of operation of, a stationary source which results in an increase in the potential emission rate of any regulated

air contaminant emitted by the source or which results in the emission of any regulated air contaminant not previously emitted...." 20.2.72.7(P) NMAC and 20.2.73.7(I) NMAC.

Notice of Intent (NOI) Requirements of 20.2.73.200 NMAC

67. Pursuant to 20.2.73.200(A)(1-2) NMAC, "any owner or operator intending to construct a new stationary source" or "modify a stationary source which either prior to or following the modification" has a "potential emission rate greater than 10 tons per year or any regulated air contaminant...shall file a notice of intent with the department."

68. Pursuant to 20.2.73.200(A)(4) NMAC, "the notice of intent shall be filed prior to the commencement of construction." If a construction permit is required, construction cannot begin before the permit is issued according to 20.2.72 NMAC. Alternatively, if no permit is required, construction cannot begin until the department issues a written determination that a permit is not required.

Construction Permit Requirements of 20.2.72.200 NMAC

69. Pursuant to 20.2.72.200(A) NMAC, construction permits must be obtained from the department by:

a. "Any person constructing a stationary source which has a potential emission rate greater than 10 pounds per hour or 25 tons per year of any regulated air contaminant for which there is a National or New Mexico Ambient Air Quality Standard." All emitted regulated air contaminants with National or New Mexico Ambient Air Quality Standards are subject to permit review if this specified threshold is exceeded for any one regulated air contaminant. 20.2.72.200(A)(1) NMAC. Determinations of applicability "shall take into account all federally enforceable emission limits established for such sources or units under NSPS, NESHAP and other parts of this chapter." 20.2.72.202(C)(2) NMAC.

b. "Any person modifying a stationary source when all of the pollutant emitting activities at the entire facility, either prior to or following the modification, emit a regulated air contaminant for which there is a National or New Mexico Ambient Air Quality Standard with a potential emission rate greater than 10 pounds per hour or 25 tons per year and the regulated air contaminant is emitted as a result of the modification." All emitted regulated air contaminants with National or New Mexico Ambient Air Quality Standards are subject to permit review if this specified threshold is exceeded for any one regulated air contaminant. 20.2.72.200(A)(2) NMAC. Determinations of applicability "shall take into account all federally enforceable emission limits established for such sources or units under NSPS, NESHAP and other parts of this chapter." 20.2.72.202(C)(2) NMAC.

c. "Any person constructing or modifying any source or installing any equipment which is subject to 20.2.77 NMAC (New Source Performance Standards)...", which includes stationary

sources and equipment constructed or modified that is subject to the requirements of NSPS. 20.2.72.200(A)(3) NMAC and 20.2.77.2 NMAC.

70. Pursuant to 20.2.72.200(E) NMAC, all sources required to obtain a construction permit must file an application for the permit prior to the commencement of construction, modification, or installation. No construction, modification, or installation shall begin prior to the issuance of the permit, regardless of the anticipated commencement date.

71. Pursuant to 20.2.72.202(C)(1)(a) NMAC, any sources or units subject to NSPS shall be exempt from the permitting applicability requirements set forth in 20.2.72.200(A)(3) NMAC if such sources or units "are included in a notice of intent filed under 20.2.73 NMAC (Notice of Intent and Emissions Inventory)." Pursuant to 20.2.73.200(A)(4) NMAC, the NOI must be filed prior to the commencement of construction.

72. Pursuant to 20.2.72.202(C)(1)(b) NMAC, any sources or units subject to NSPS shall be exempt from the permitting applicability requirements set forth in 20.2.72.200(A)(3) NMAC if such sources or units "[h]ave met the notification requirements to which they are subject under NSPS."

73. Pursuant to 20.2.72.203 NMAC, any person seeking a construction permit must file a written application with NMED, following the instructions on the forms furnished by NMED, and the written application must contain the information specified in 20.2.72.203(A)(1)-(15) NMAC.

Clean Air Act Title V Requirements

74. Title V of the CAA Amendments of 1990 requires the EPA to promulgate regulations that require and specify the minimum elements of State operating permit programs. The EPA published a final rule establishing a comprehensive State air quality permitting system consistent with the requirements of Title V of the CAA on July 21, 1992. The standards and procedures by which the EPA approves, oversees, and withdraws approval of State and tribal Title V operating permits programs are codified at 40 C.F.R. Part 70.

75. Title V of the CAA requires States to develop and submit to the EPA programs for issuing operating permits to major stationary sources and sources covered by NSPS under Section 111 of the CAA. 42 U.S.C. § 7661a(a). However, according to 40 C.F.R. § 70.3(b)(2), in the case of non-major sources subject to a standard or other requirement under either Section 111 or Section 112 of the CAA after July 21, 1992, the Administrator will determine whether to exempt any or all such applicable sources from the requirement to obtain an operating permit at the time that the new standard is promulgated. Pursuant to 40 C.F.R. §§ 60.5370(c) or 60.5370a(c), non-major sources subject to NSPS Subparts OOOO or OOOOa, are exempt from the requirement to obtain an operating permit.

76. Section 501 of the CAA, 42 U.S.C. § 7661, defines a major source as any stationary source (or group of stationary sources located within a contiguous area and under common control) that is either:

a. a "major source" as defined in Section 112 of the Act, 42 U.S.C § 7412, *i.e.*, "any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants," or

b. a "major stationary source" as defined in Section 302 of the Act, 42 U.S.C § 7602, *i.e.*, "any stationary facility or source of air pollutants which directly emits, or has the potential to emit, one hundred tons per year or more of any air pollutant."

77. Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), and the implementing regulations at 40 C.F.R § 70.7(b) provide that, after the effective date of the state Title V permit program, no person may violate any requirement of a Title V permit or operate a source subject to a Title V permit except in compliance with a Title V permit.

78. The EPA promulgated full approval of the New Mexico Title V program, effective on January 27, 1997. 61 Fed. Reg. 60,032 (Nov. 26, 1996).

79. Section 503(c) of the Act, 42 U.S.C. § 7661b(c), sets forth the requirement to submit a timely, accurate, and complete application for a permit, including information required to be submitted with the application.

80. Section 504(a) of the Act, 42 U.S.C. § 7661c(a), requires that each Title V permit include enforceable emission limitations and standards, a schedule of compliance, and other conditions necessary to assure compliance with applicable requirements, including those contained in a SIP.

81. The New Mexico regulations governing the Title V permitting program are codified at Title 20 of the New Mexico Administrative Code (20 NMAC), Chapter 2 on Air Quality, Part 70.

82. 20.2.70 NMAC defines a major source as it is defined under the Section 501 of the CAA, 42 U.S.C. § 7661.

83. Pursuant to 20.2.70.200(B) NMAC, any source subject to NSPS must obtain an operating permit from the NMED. However, pursuant to 20.2.70.202(B) NMAC, non-major sources, including those sources subject to Sections 111 or 112 of the CAA, are exempt from the obligation to obtain a Part 70 (20.2.70 NMAC) permit until such time that the Administrator completes a rulemaking that requires such sources to obtain operating permits. Pursuant to 40 C.F.R §§ 60.5370(c) and 60.5370a(c), non-major sources subject to NSPS Subparts OOOO and OOOOa are exempt from the requirement to obtain an operating permit.

84. Pursuant to 20.2.70.201 NMAC, a source that is required to obtain an operating permit may operate after the time that is required to submit a timely and complete application only if:

a. "the source is in compliance with the permit issued by the department or EPA; or"

b. "a timely permit (including permit renewal) application has been submitted...". 20.2.70.201(A) NMAC.

85. Pursuant to 20.2.70.300 NMAC, each source required to obtain an operating permit must submit a timely and complete application within twelve months after the source commences operation.

III. Factual Background

86. Mewbourne owns and/or operates the oil and natural gas production facilities listed above in Tables 1, 2, and 3, all of which were constructed after August 23, 2011. Therefore, each storage vessel at these facilities that has a PTE equal to or greater than 6 tpy of VOC is subject to NSPS Subpart OOOO or OOOOa.

87. Mewbourne's oil and natural gas production facilities are all very similar in layout and include the following types of equipment: one to four vertical heater/treater units, with smaller phase separators and corresponding VRUs; a candlestick flare for control of emissions; and a storage vessel battery typically consisting of 750 barrel (bbl) crude oil and condensate storage vessels, produced water storage vessels, and a larger 1000 bbl skim storage vessel, known as a "gun barrel" storage vessel. The storage vessel battery typically contains from four to nine oil storage vessels with interconnected vapor space coupled by common vent lines with the produced water storage vessels. The gun barrel storage vessel provides final separation of oil and water. The produced water storage vessels and oil storage vessels in a storage vessel battery are fixed roof storage vessels. For each storage vessel battery, the produced water storage vessels and oil storage vessels share the same closed vent system. The gun barrel storage vessels are not controlled.

88. The storage vessels are protected from over-pressurization by various pressure release devices (PRDs). These include thief hatches on the covers of the storage vessels and pressure-relief valves (PRVs) on the closed vent system, which are referred to as "Enardo valves" by company personnel.

Drillinginfo Data

89. The EPA and NMED analyzed well-level data, including names, locations, historical production records, and completion dates, obtained by querying Drillinginfo's DI Desktop application, a proprietary data source accessed via license agreement (https://info.drillinginfo.com/products/di-plus/). Drillinginfo compiles data into the DI Desktop application by accessing publicly available well data from state agencies, including New Mexico's Oil Conservation Division.

90. The historical oil production records and well completion dates for the wells associated with Mewbourne's oil and natural gas production facilities listed above in Tables 1, 2, and 3 demonstrate that the storage vessels are subject to NSPS Subparts OOOO or OOOOa.

91. The Drillinginfo well completion data, summarized in Table 4 below, shows that all of the wells that produce into the oil storage vessels at the facilities listed above in Table 1, 2, and 3 were completed after August 23, 2011; and, therefore, according to this data the earliest possible date of construction for the oil storage vessels occurred after August 23, 2011.

92. The Drillinginfo well completion data, summarized in Table 4 below, show that all of the wells that produce into oil storage vessels at 25 oil and natural gas production facilities were completed after September 18, 2015, and, therefore, according to this data the earliest possible date of construction for the oil storage vessels at those 25 oil and natural gas production facilities occurred after September 18, 2015.

93. The Drillinginfo oil production data for the 12-month period ending November 2018 for the wells associated with the facilities listed in Table 3 are summarized in Table 4 below. The production data support that there are significant potential VOC emissions associated with the oil storage vessels that receive produced oil from the wells; however, no permit applications or NOIs were submitted to NMED by Mewbourne for the facilities where the storage vessels are located.

TABLE 4: DRILLINGINFO DATA

Facility	Number of Wells	Total Reported Oil Production, 12-month period ending 11/2018	Earliest Well Completion Date
Salado Draw 9 16 W1BO Federal Com	6	241,300 Bbls	12/20/2012
Cabra Nino 11 B3MD State Com 1H Battery	2	285,496 Bbls	11/29/2016
El Mar 21 W0DM 2H W1CN 3H W0CN 4H Battery	8	481,702 Bbls	1/8/2015
FNR 17-20 B21P Fed Com 1H B31P 2H Battery	4	290,044 Bbls	10/21/2015
Forty Niner Ridge Unit 105H 106H Battery	4	336,945 Bbls	2/10/2015
Hoss 2 11 Federal Com Battery	2	469,646 Bbls	11/3/2017
Jennings 34 W1MD Fed Com 1H Battery	1	82,693 Bbls	2/4/2017
Lindale 24-25 W1AH Fed 1H 2H Battery	2	235,308 Bbls	6/19/2018
Mad Dog 26 MD State Com 1H Battery	4	350,621 Bbls	11/20/2013
Pronghorn 15 B3CN Fed Com 1H Battery	3	458,459 Bbls	3/3/2017
Queen 23 24 Fed Com Battery	2	341,077 Bbls	3/9/2018
Yardbirds 3 W0AP Fee 2H W2AP1H Battery	4	266,086 Bbls	11/25/2015
Toro 36 B3AP State 1H battery	2	322,025 Bbls	12/25/2015
Toro 36 B2CN State 1H Battery	2	331,311 Bbls	7/17/2015
Speedwagon 27 Fee Battery	3	370,140 Bbls	11/7/2015
Salado Draw 10 Federal Battery	7	580,168 Bbls	6/13/2012
Jennings 27 W0AP Federal Com	4	147,646 Bbls	4/5/2017
Armstrong 26 23 W1HA Federal Com	1	103,859 Bbls	7/24/2018
Leo 15 B2DN Federal Com	4	112,825 Bbls	8/23/2014
Bilbrey 34 27 B2NC Federal Com	2	234,819 Bbls	3/14/17
Owl DRAW 22 27 B2BO Federal Com	5	289,543 Bbls	7/28/2014
Oxbow 26 25 W0DA Federal Com	2	123,424 Bbls	10/3/2018
Virgo 24 23 B2AD Federal Com	1	67,859 Bbls	10/4/2018
Roscoe 6 B3AD Federal Com	1	69,092 Bbls	6/23/2017
Scharb 10 B3MD State	4	124,642 Bbls	3/4/2014
Marathon Road 14 NC Federal	2	73,680 Bbls	11/12/2014
Boston 7 W0MP Fee	4	268,782 Bbls	5/27/2017
Rock Spur 27 W0CN State	4	416,832 Bbls	6/27/2017
Whitesnake 20 21 W0BC Fee	2	156,486 Bbls	7/6/2018
Styx 17 W2PA Fee Com	1	37,702 Bbls	4/28/2017
Foreigner 33 4 W2LM Fee Com	2	97,732 Bbls	1/17/2016

Zeppelin 32 W0LI State Com	2	133,701 Bbls	7/9/2018
Hollywood 28 33 W2IP Federal Com	1	49,309 Bbls	3/24/2017
South Loving 2 11 W0DE State Com	2	57,613 Bbls	10/23/2018
Journey 12 W0MP Fee Com	3	154,477 Bbls	6/30/2016

Inspection Findings

94. On April 16-18, 2019, EPA and NMED inspectors inspected the 16 oil and natural gas production facilities listed in Tables 1 and 2 above (Facilities). The inspectors documented observations using optical gas imaging (OGI) with a FLIR GF320 camera, photoionization detector (PID) gas monitoring, and OVA.

95. The inspectors observed significant amounts of emissions, using OGI, emanating from the storage vessel and closed vent system PRDs (i.e., thief hatches on oil and produced water storage vessel covers, and/or PRVs on the storage vessels' closed vent system) at 11 of the 16 Facilities, as follows: Cabra Nino 11 B3MD State Com 1H Battery; FNR 17-20 B21P Fed Com 1H B31P 2H Battery; Hoss 2 11 Federal Com Battery; Pronghorn 15 B3CN Fed Com; Queen 23 24 Fed Com Battery; Yardbirds 3 W0AP Fee 2H W2AP 1H Battery; Toro 36 B3AP State 1H Battery; Toro 36 B2CN State 1 HP Battery; Salado Draw 9 16 W1BO Federal Com; El Mar 21 W0DM 2H W1CN 3H W0CN 4H Battery; and, Salado Draw 10 Federal Battery.

96. During the inspections, two of the Facilities, Forty Niner Ridge Unit 105H 106H Battery and Speedwagon 27 Fee Battery, were not operating. Mewbourne reported that the wells that produce oil into the storage vessels were not producing at the time of the inspection, and the oil storage vessels at these Facilities did not contain oil during the inspections.

97. During the inspection, pumps were transferring oil from the oil storage vessels at the Mad Dog 26 MD State Com 1H Battery Facility into the oil sales pipeline. No emissions are expected from the oil storage vessels' PRDs during oil transfers from the storage vessels to the pipeline.

98. The inspectors observed bypass devices on the storage vessels' closed vent systems at all 16 of the Facilities, with exception of the Mad Dog 26 MD State Com 1H Battery Facility (which has no gun barrel storage vessel). The bypass devices are connected to each gun barrel storage vessel's produced water line, which is connected to the first produced water storage vessel's vapor headspace, and which, in turn, is interconnected with the closed vent system of the oil and produced water storage vessels. These bypass devices allow emissions from the oil and produced water storage vessels to be vented to the atmosphere, bypassing the Facility's closed vent system, VRU, and flare.

99. The inspectors observed that the bypass devices do not include any flow indicators or valves with car-seals or lock-and-key type configurations at the inlets to the bypass devices and that the bypass devices are not low leg drains, high point bleeds, analyzer vents, open-ended valves or lines, or safety devices.

100. The inspectors observed significant amounts of emissions, using OGI, venting from the bypass devices at 11 of the 16 Facilities, as follows: Cabra Nino 11 B3MD State Com 1H Battery; FRN 17-20 B21P Fed Com 1H B31P 2H Battery; Forty Niner Ridge Unit 106H Battery; Hoss 2 11 Federal Corm Battery; Pronghorn 15 B3CN Fed Com 1H Battery; Queen 23 24 Fed Com Battery; Yardbirds 3 W0AP Fee 2h W2AP 1H Battery; Toro 36 B3AP State 1H Battery; Toro 36 B2CN State 1H Battery; Salado Draw 9 16 W1BO Federal Com; and, El Mar 21 W0DM 2H W1CN 3H W0CN 4H Battery.

101. The inspectors observed, during venting from the bypass devices, that no alarm or other remote notification system that alarms to the nearest field office was used to notify Mewbourne personnel that the bypass device has been initiated or was in use at any the 11 Facilities listed above.

102. The inspectors observed hydrocarbon odors, and/or elevated VOC concentrations recorded by PID monitoring downwind from the storage vessels where OGI emissions were detected.

103. The inspectors observed pervasive staining on equipment at several of the Facilities, especially around the PRVs and thief hatch areas. In many instances, inspectors observed spilled oil residing inside the storage vessel containment areas. This includes Mad Dog 26 MD State Com 1H Battery, where, at the time of inspection, emissions from the storage vessels or closed vent system were not observed. The staining on the equipment and the spilled oil suggest that the observed emissions are not isolated and have been occurring for a significant amount of time.

104. The inspectors observed candlestick flares and VRUs connected to each storage vessel closed vent system at each of the Facilities. Flares were observed operating, combusting waste gas, with a visible flame, at the following eight Facilities: Mad Dog 26 MD State Com 1H Battery; Toro 36 B2CN State 1H Battery; Toro 36 B3AP State 1H battery; Pronghorn 15 B3CN Fed Com 1H Battery; Cabra Nino 11 B3MD State Com 1H Battery; FNR 17-20 B21P Fed Com 1H B31P 2H Battery; Salado Draw 10 Federal Battery; and, Lindale 24-25 W1AH Fed 1H 2H Battery.

105. The inspectors observed additional gas-fired compressor engines not included in the NOI submitted to NMED at the following four Facilities: FNR 17-20 B21P Fed Com 1H B31P 2H Battery (two observed, one in NOI), Queen 23 24 Fed Com Battery (one observed, none in NOI), Hoss 2 11 Federal Com Battery (one observed, none in NOI), and Toro 36 B3AP State 1H battery (one observed, none in NOI).

106. The inspectors observed the following equipment at the FNR 17-20 B21P Fed Com 1H B31P 2H Battery that was not included in the NOI: one gun barrel storage vessel, two produced water storage vessels, three oil storage vessels, and one flare. Mewbourne reported that the well that produces oil into the three storage vessels was not producing during the inspection, and that the oil storage vessels at the Facility did not contain oil during the inspection.

107. A flare was not included in the NOI that was submitted for the following five Facilities: Cabra Nino 11 B3MD State Com 1H Battery; Hoss 2 11 Federal Com Battery; Pronghorn 15 B3CN Fed Com 1H Battery; Queen 23 24 Fed Com Battery; and, Toro 36 B3AP State 1H Battery.

NOI Status and Information

108. Mewbourne submitted NOIs for the oil and natural gas production Facilities listed in Table 5. Table 5 presents the date the NOI was received by NMED, as documented in the NOI responses from NMED, and the emissions estimates provided by Mewbourne in its NOI submittals. The NOI submittals and the responses from NMED are not operating permits or construction permits, and do not provide legally and practically enforceable emissions limitations. The NOI is intended to provide notice to NMED, identify each emissions source that will be constructed, and provide the company's estimates of potential VOC emissions.

109. Based on the information included with the NOI, the VOC emissions estimates presented in Table 5 assumes that the VRU recovers 95% of the VOC emissions for each oil storage vessel. For each Facility, with exception of the Forty Niner Ridge Unit 105H 106H Battery and Yardbirds 3 W0AP Fee 2H W2AP 1H Battery Facilities, the VOC emissions estimate assumes that the 5% of VOC emissions not recovered by the VRU are vented to the atmosphere. For the Forty Niner Ridge Unit 105H 106H Battery and Yardbirds 3 W0AP Fee 2H W2AP 1H Battery Facilities, the VOC emissions estimates assume the 5% of emissions not recovered by the VRUs are combusted in a flare, which achieves a 98% destruction and removal efficiency (DRE).

Emissions Determination for Facilities Listed in Tables 1 and 2

110. None of Mewbourne's oil and produced water storage vessels at the Facilities are subject to a legally and practically enforceable limit in an operating permit or other requirement relevant to potential VOC emissions established under federal, state, local, or tribal authority (other than the storage vessel requirements established under NSPS Subparts OOOO and OOOOa). Therefore, emissions from the oil and produced water storage vessels that are recovered and routed to a VRU or process through a closed vent system, do not need to be included in the emission determinations required by 40 C.F.R. §§ 60.5365(e) and 60.5365a(e), provided that the storage vessels, closed vent systems, and VRUs are designed and operated in compliance with the cover requirements of 40 C.F.R. §§ 60.5411(b) and 60.5411a(b) and the closed vent system requirements of 40 C.F.R. §§ 60.5411(c), and 60.5411a(c) and (d).

111. Based upon inspection findings, Mewbourne has failed to comply with the storage vessel cover requirements of 40 C.F.R. §§ 60.5411(b) and 60.5411a(b) at the Facilities. The covers and/or openings on storage vessel covers (*e.g.*, access hatches, sampling ports, PRVs, or gauge wells) at these Facilities do not form a continuous impermeable barrier over the entire surface area of the liquid in the storage vessels, as required by 40 C.F.R. §§ 60.5411(b)(1) and 60.5411a(b)(1), storage vessel cover openings are not secured as required by 40 C.F.R. §§ 60.5411(b)(2) and 60.5411a(b)(2), and/or storage vessel thief hatches are not maintained and operated to ensure that the lid remains sealed and seated under normal operating conditions as required by 40 C.F.R. §§ 60.5411(b)(3) and 60.5411a(b)(3).

112. Based upon inspection findings, Mewbourne failed to comply with the closed vent system requirements of 40 C.F.R. §§ 60.5411(c) and 60.5411a(c) at the Facilities. The closed vent systems are not designed to route all gases, vapors, and fumes emitted from the material in the storage vessels to a control device or to a process, as required by 40 C.F.R. §§ 60.5411(c)(1) and 60.5411a(c)(1), the closed vent systems are not designed and operated with no detectable emissions, as determined using OVA inspection, as required by 40 C.F.R. §§ 60.5411(c)(2) and 60.5411a(c)(2), and the closed vent systems contain bypass devices (except at the Mad Dog 26 MD State Com 1H Battery) without flow indicators, or car seal or lock and key configurations, and the bypass devices divert a portion of the gases, vapors, or fumes to the atmosphere, away from the control device, and/or the VRU, which is prohibited by 40 C.F.R. §§ 60.5411(c)(3) and 60.5411a(c)(3).

113. Because Mewbourne is not in compliance with the cover and closed vent system requirements of 40 C.F.R. §§ 60.5411(b) and (c), and 60.5411a(b) and (c), at the Facilities, all emissions from each oil and produced water storage vessel at the Facilities, including emissions recovered by a VRU, or routed to a control device, must be included when determining potential emissions, as required by 40 C.F.R. §§ 60.5365(e) and 60.5365a(e).

114. The potential VOC emissions, as represented in the NOI, for each oil storage vessel at the Facilities (except Salado Draw 9 16 W1BO Federal Com, for which no NOI was submitted) exceed 6 tpy as shown in Table 5, when emissions potentially recovered by a VRU or routed to a control device are included in the potential emissions. These oil storage vessels, therefore, are storage vessel affected facilities under NSPS Subparts OOOO or OOOOa, and subject to various requirements, including the VOC standards for storage vessel affected facilities at 40 C.F.R.§§ 60.5395(d)(1) or 60.5395a(a)(2). The potential VOC emissions of the oil storage vessels in Table 5 also indicate that a control device or routing emissions to a process is necessary to meet the emissions reduction requirements of 40 C.F.R. §§ 60.5395(d)(1) or 60.5395a(a)(2).

115. The potential VOC emissions for each oil storage vessel at Salado Draw 9 16 W1BO Federal Com are likely greater than 6 tpy, when emissions potentially recovered by a VRU or routed to a control device are included in the potential emissions, based on the oil throughput from Drillinginfo documented in Table 4, and the inspection findings. The oil storage vessels at Salado Draw 9 16 W1BO Federal Com are therefore storage vessel affected facilities under NSPS Subparts OOOO or OOOOa, and subject to various requirements, including the VOC standards for storage vessel affected facilities at 40 C.F.R. §§ 60.5395(d)(1) or 60.5395a(a)(2). The potential VOC emissions for the oil storage vessels at Salado Draw 9 16 W1BO Federal Com, if consistent with the potential emissions in Table 5, also indicate that a control device or routing emissions to a process is necessary to meet the emissions reduction requirements of 40 C.F.R. §§ 60.5395(d)(1) or 60.5395a(a)(2).

TABLE 5 - NOI SUBMITTAL DATES AND INFORMATION

Facility	Date NMED Received NOI	Total Facility VOC emissions as indicated by NOI	Number of oil storage vessels to be constructed as indicated by NOI	VOC emissions per oil storage vessel, as indicated in NOI, assuming VRU recovers 95% of emissions	VOC emissions per oil storage vessel, without controls, as indicated in NOI
Cabra Nino 11 B3MD State Com 1H Battery	12/11/2017	61.24 tpy	6	2.26 tpy	45 tpy
El Mar 21 W0DM 2H W1CN 3H W0CN 4H Battery	11/13/2018	70.4 tpy	10	1.85 tpy	37 tpy
FNR 17-20 B21P Fed Com 1H B31P 2H Battery	3/6/2019	62.4 tpy	6	2.27 tpy	45 tpy
Forty Niner Ridge Unit 105H 106H Battery	4/22/2019	67.12 tpy	9	0.02 tpy*	35 tpy
Hoss 2 11 Federal Com Battery	12/11/2017	77.89 tpy	6	3.07 tpy	61 tpy
Jennings 34 W1MD Fed Com 1H Battery	4/26/2019	70.1 tpy	4	3.42 tpy	68 tpy
Lindale 24-25 W1AH Fed 1H 2H Battery	2/21/2019	36.0 tpy	6	1.37 tpy	27 tpy
Mad Dog 26 MD State Com 1H Battery	11/27/2017	45.27 tpy	8	1.18 tpy	24 tpy
Pronghorn 15 B3CN Fed Com 1H Battery	2/27/2019	70.26 tpy	8	3.22 tpy	64 tpy
Queen 23 24 Fed Com Battery	7/9/2018	49.7 tpy	6	2.06 tpy	41 tpy
Yardbirds 3 W0AP Fee 2H W2AP 1H Battery	4/25/2019	60.21 tpy	6	0.02 tpy*	34 tpy
Toro 36 B3AP State 1H Battery	7/20/2018	44.93 tpy	6	1.73 tpy	35 tpy
Toro 36 B2CN State 1H Battery	4/9/2018	40.47 tpy	6	1.89 tpy	38 tpy
Speedwagon 27 Fee Battery	4/9/2018	42.69 tpy	6	2.06 tpy	41 tpy
Salado Draw 10 Federal Battery	4/26/2018	59.73 tpy	6	2.02 tpy	40 tpy

*Emissions estimate from NOI includes assumed 98% flare DRE of 5% of oil storage vessel emissions not routed to a VRU.

IV. Violations

COUNT 1: Violation of 40 C.F.R. §§ 60.5395(e)(1) and (g)(2), or 60.5395a(b)(1) and (d)(2), and 40 C.F.R. §§ 60.5415(e)(3)(ii)(C) or 60.5415a(e)(3)(ii)(C), for failure to comply with the storage vessel requirements for oil storage vessel covers at §§ 60.5411(b) or 60.5411a(b), and closed vent systems that are designed and operated to route oil storage vessel emissions to a control device or process at §§60.5411(c) or 60.5411a(c).

116. As discussed in the Emissions Determination section above for the Facilities, the Facilities' oil storage vessels are storage vessel affected facilities under NSPS Subpart OOOO or Subpart OOOOa and, therefore, Mewbourne must comply with NSPS Subparts OOOO or OOOOa Storage Vessel Affected Facility VOC Standards of 40 C.F.R. §§ 60.5395 or 60.5395a.

117. In accordance with 40 C.F.R. §§ 60.5395(e)(1) or 60.5395a(b)(1), the Facilities' oil storage vessels are subject to the control requirements for storage vessel covers at 40 C.F.R. §§ 60.5411(b) or 60.5411a(b), and the control requirements for storage vessel closed vent systems at 40 C.F.R §§ 60.5411(c) or 60.5411a(c), because Mewbourne routes oil storage vessel emissions to a control device or process to comply with the emissions reduction requirements of 40 C.F.R. §§ 60.5395(d)(1) or 60.5395a(a)(2).

118. In accordance with 40 C.F.R. §§ 60.5395(g)(2) or 60.5395a(d)(2), Mewbourne must demonstrate continuous compliance for the Facilities' oil storage vessels under 40 C.F.R. §§ 60.5415(e)(3) or 60.5415a(e)(3), specifically 40 C.F.R. §§ 60.5415(e)(3)(ii)(C) or 60.5415a(e)(3)(ii)(C), by complying with the control requirements for storage vessel closed vent systems at 40 C.F.R §§ 60.5411(c)(2) or 60.5411a(c)(2) and (3), because Mewbourne routes oil storage vessel emissions to a process to comply with the emissions reduction requirements of 40 C.F.R. §§ 60.5395(d)(1) or 60.5395a(a)(2).

119. As discussed in the Inspection Findings and in the Emissions Determination sections above, Mewbourne failed to comply with the storage vessel cover requirements of 40 C.F.R. §§ 60.5411(b) or 60.5411a(b) and the storage vessel closed vent system requirements of 40 C.F.R. §§ 60.5411(c) or 60.5411a(c) for the oil storage vessels at the Facilities, which is a violation of the VOC standards for storage vessel affected facilities at 40 C.F.R. §§ 60.5395(e)(1) or 60.5395a(b)(1).

120. As discussed in the Inspection Findings and in the Emissions Determination sections above, Mewbourne failed to comply with the storage vessel closed vent system requirements of 40 C.F.R. §§ 60.5411(c)(2) or 60.5411a(c)(2), which is a violation of the VOC standards for storage vessel affected facilities at 40 C.F.R. §§ 60.5395(g)(2) or 60.5395a(d)(2), and the continuous compliance requirements of 40 C.F.R. §§ 60.5415(e)(3)(ii)(C) or 60.5415a(e)(3)(ii)(C).

121. Additionally, Mewbourne failed to comply with the storage vessel closed vent system requirements of 40 C.F.R. § 60.5411a(c)(3), for the oil storage vessels at the ten Facilities listed in Table 4 with earliest well completion dates after September 18, 2015, which is a violation of

the VOC standards for storage vessel affected facilities at 40 C.F.R. § 60.5395a(d)(2), and the continuous compliance requirements of 40 C.F.R. § 60.5415a(e)(3)(ii)(C).

122. Mewbourne failed to comply with the storage vessel cover requirements of 40 C.F.R. §§ 60.5411(b) or 60.5411a(b) for the Facilities' oil storage vessels, because the covers and/or openings on the storage vessel covers (*e.g.*, access hatches, sampling ports, PRVs, or gauge wells) do not form a continuous impermeable barrier over the entire surface area of the liquid in the storage vessels, as required by 40 C.F.R. §§ 60.5411(b)(1) and 60.5411a(b)(1), the cover openings are not secured as required by 40 C.F.R. §§ 60.5411(b)(2) and 60.5411a(b)(2), and/or the storage vessel thief hatches are not maintained and operated to ensure that the lid remains sealed and seated under normal operating conditions including such times when working, standing/breathing, and flash emissions are generated as required by 40 C.F.R. §§ 60.5411(b)(3) and 60.5411a(b)(3).

123. Mewbourne failed to comply with the storage vessel closed vent system requirements of 40 C.F.R. §§ 60.5411(c) or 60.5411a(c) for the Facilities oil storage vessels because the closed vent systems of the oil storage vessels are not designed to route all gases, vapors, and fumes emitted from the material in the storage vessels to a control device or to a process, as required by 40 C.F.R. §§ 60.5411(c)(1) and 60.5411a(c)(1), the closed vent systems are not designed and operated with no detectable emissions, as determined using OVA inspection, as required by 40 C.F.R. §§ 60.5411(c)(2) and 60.5411a(c)(2), and the closed vent systems contain bypass devices (except at the Mad Dog 26 MD State Com 1H Battery) without flow indicators, or car seal or lock and key configurations, and the bypass devices divert a portion of the gases, vapors, or fumes to the atmosphere, away from the control device, and/or the VRU, which is prohibited by 40 C.F.R. §§ 60.5411(c)(3) and 60.5411a(c)(3).

COUNT 2: Violation of 40 C.F.R. §§ 60.5420(b)(1) and (6), or 60.5420a(b)(1) and (6) for failure to submit required annual reports for each storage vessel affected facility.

124. As discussed in the Emissions Determination section above for the Facilities, the oil storage vessels are storage vessel affected facilities under NSPS Subpart OOOO or Subpart OOOOa, and therefore, Mewbourne must comply with the NSPS Subpart OOOO or OOOOa Notification, Reporting, and Recordkeeping Requirements of 40 C.F.R §§ 60.5420 and 60.5420a for their oil storage vessels.

125. Mewbourne failed to submit any annual reports containing information on each storage vessel affected facility. Failing to submit the annual reports within 90 days after the initial compliance period ended, pursuant to the compliance period of 40 C.F.R. §§ 60.5410 or 60.5410a, and annually thereafter, are violations of 40 C.F.R. §§ 60.5420(b)(1) and (6), or 60.5420a(b)(1) and (6). The annual reports are past due for each Facility listed in Tables 1 and 2, except Lindale 24-25 W1AH Fed 1H 2H Battery Facility. The annual report for the Lindale 24-25 W1AH Fed 1H 2H Battery Facility, is not due until on or around September 19, 2019, which is approximately 90 days after the initial compliance period ended.

COUNT 3: Violation of 20.2.72.200(A)(3) NMAC for failure to obtain an NMED construction permit.

126. Mewbourne failed to obtain a construction permit for any of the Facilities, which are stationary sources.

127. Each oil storage vessel at the facilities listed in Tables 5 has a construction date after August 23, 2011 and potential VOC emissions greater than 6 tpy, when the oil storage vessel emissions recovered by a VRU or routed to a control device are included.

128. Each oil storage vessel at the at Salado Draw 9 16 W1BO Federal Com Facility has construction dates after August 23, 2011, and potential VOC emissions greater than 6 tpy, when the oil storage vessel emissions recovered by a VRU or routed to a control device are included, considering inspection observations and oil production data included in Table 4. The oil storage vessels, and associated VRUs, closed vent systems and flares at the Facilities are equipment subject to NSPS Subpart OOOO or OOOOa.

129. Each NOI submittal date documented in Table 5, occurred after construction, assumed to be on or around the earliest well completion dates from Table 4. Therefore, in each case where an NOI was submitted by Mewbourne, construction began before the NOI was submitted. No NOI was submitted for the Salado Draw 9 16 W1BO Federal Com Facility.

130. Failing to obtain a construction permit for the oil storage vessels and associated VRUs, closed vent systems and flares at each of the Facilities, which include storage vessel affected facilities subject to NSPS Subpart OOOO or OOOOa, are violations of 20.2.72.200(A)(3) NMAC. The equipment is not exempt from the construction permit requirement by 20.2.72.202(C)(1) NMAC because construction began before an NOI was submitted and because no notification is required for the oil storage vessels under NSPS Subpart OOOO or OOOOa.

COUNT 4: Violation of 20.2.73.200(A)(1) NMAC for failure to submit a NOI prior to the start of construction of oil and natural gas production site equipment

131. Pursuant to 20.2.73.200(A)(1) NMAC, owners and operators must submit a NOI prior to the start of construction of oil and natural gas production site equipment, at stationary sources with potential emission rates greater than 10 tpy of any regulated air contaminant.

132. The Facilities have potential emission rates of VOC, a regulated air contaminant, greater than 10 tpy, based on information submitted in the NOI (except for Salado Draw 9 16 W1BO Federal Com, for which no NOI was submitted). The potential emissions rates of VOC at Salado Draw 9 16 W1BO Federal Com also likely exceed 10 tpy, based on inspection observations and Drillinginfo data. Mewbourne therefore violated 20.2.73.200(A)(1) NMAC by failing to submit an NOI prior to the start of construction of the Facilities.

133. The oil and natural gas production facilities listed in Table 3 also likely have potential emission rates of VOC, a regulated air contaminant, greater than 10 tons per year, based on Drillinginfo data, comparing oil production data included in Table 4. Mewbourne therefore violated 20.2.73.200(A)(1) NMAC by failing to submit an NOI prior to the start of construction of the facilities listed in Table 3.

134. In addition, failing to submit an NOI for sources of emissions such as compressor engines with natural gas fired compressors, storage vessels, and flares as discussed in the Inspection Findings section above, Mewbourne continues to violate 20.2.73.200(A)(1) NMAC.

COUNT 5: Violation of 20.2.70.200(A) and (B) and 20.2.70.201(A) NMAC for failure to obtain an NMED operating permit for major sources subject to 40 C.F.R. Part 60, Subparts OOOO or OOOOa.

135. As discussed in the Emissions Determination section above for the oil and natural gas production facilities listed in Tables 1 and 2, the potential emission rates of VOC for the oil storage vessels are greater than 100 tpy and are "major sources," as defined under Section 501 of the CAA, 42 U.S.C. § 7661, and 20.2.70 NMAC.

136. Pursuant to 20.2.70.200 NMAC, owners and operators must apply for an operating permit within twelve months of the commencement of operation for major stationary sources with potential emission rates equal to or greater than 100 tpy of any regulated air contaminant, including VOC.

137. As of April 18, 2019, Mewbourne had not submitted operating permit applications for the Facilities listed in Tables 1 and 2.

138. Therefore, Mewbourne violated 20.2.70.200(A) and (B), and 20.2.70.201(A) NMAC, for the Facilities for failure to submit a timely application for an operating permit for major stationary sources with potential emission rates equal to or greater than 100 tpy of any regulated air contaminant.

V. Enforcement Provisions

139. NMED's investigation into this matter is continuing. The above information represents specific violations that NMED believes, at this point, are sufficiently supported by evidence to warrant the allegations in this NOV. NMED may find additional violations as the investigation continues.

140. NMSA § 74-2-12 and 12.1, provides NMED with several enforcement options to resolve these violations, including issuing an administrative compliance order, issuing a statutorily authorized penalty, or bringing a judicial civil action.

141. A person who violates a provision of the Air Quality Control Act or a regulation, including NSPS regulations, permit condition or emergency order adopted or issued pursuant to that act may be assessed a civil penalty not to exceed fifteen thousand dollars ($15,000) for each day during any portion of which a violation occurs.

142. NMED may seek, and a United States district court may order, equitable remedies to further address these alleged violations. NMSA § 74-2-12.A(2).

11/4/19

Date

Liz Bisbey-Kuehn
Air Quality Bureau Chief
NMED